Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of
Implementation of Section 402(b)(1)(A)
of the Telecommunications Act of 1996

CC Docket No. 96-187

NYNEX COMMENTS

The NYNEX Telephone Companies

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SUMMARY

While the NPRM is designed to implement the tariff streamlining provisions of Section 204(a)(3) of the Act, the NPRM proposes very little in the way of streamlining. In fact, it proposes to increase the regulatory burden on the local exchange carriers ("LECs"). The Commission interprets Section 204(a)(3) too narrowly in stating that it was intended to provide streamlining through a reduction in the notice periods for tariff filings to 15 days (in the case of rate increases) and 7 days (in the case of rate reductions). That approach fails to give any effect to the first sentence of Section 204(a)(3), which, independently of the revised notice periods, sets forth the right of a LEC to file tariffs for a "new or revised charge" on a streamlined basis. The Commission should give full force and effect to the Congressional directive to deregulate the LECs by establishing reduced regulatory requirements for streamlined tariff filings.

The Commission should implement Section 204(a)(3) by reducing the amount of supporting data that the LECs must submit with streamlined tariff filings, including the annual access tariff filings, contract tariffs, and promotional tariffs. The Commission should eliminate the Part 69 waiver requirement for LECs that seek to introduce new or revised Switched Access rate elements. The Commission should also find that Congress did not intend for the Commission

to be able to defer the effective date of a streamlined tariff filing for up to 120 days.

The Commission should interpret the phrase "deemed lawful" in Section 204(a)(3) to mean that once a streamlined tariff goes into effect, it is the lawful rate until found unlawful in a tariff investigation. This would preclude the award of damages prior to the date that the tariff was found unlawful. There is no statutory support for the Commission's suggestion that the term "deemed lawful" could mean "presumed lawful."

All tariffs, including revisions to existing rates, new rates for existing services, and rates for new services, should be eligible for streamlined tariff filing. This would be consistent with the language in Section 204(a)(1) and with the definition of "new" services in the Commission's price cap rules.

The Commission should work with industry groups to develop an electronic filing system for tariffs. With regard to streamlined tariff filings, the most important task is to develop an electronic posting system that would give parties immediate access to tariff filings, petitions, and replies. The Commission could accomplish this by posting notice of these filings on its Web page, with hot links to LEC Web pages where the tariffs would be available. Because of the proprietary nature of the various word processing and document publishing programs that the LECs use to prepare their tariff filings, the industry needs to develop a standardized method of converting the source data from these

programs to a form that can be included in a Web page without losing the document formatting. The Commission should consider the use of such industry standards as well as other methodologies to achieve standardization and normalization of tariff data which will serve to facilitate the Commission's goal of streamlined tariffs, electronic filings, and distribution of tariff information via the World Wide Web.

The Commission should engage in pre-effective review of streamlined tariffs except where complex issues cannot be resolved within the statutory notice periods. The Commission should not require additional information from the LECs as part of its pre-effective review. Requiring additional information would be directly contrary to the Congressional objective of allowing streamlined tariff filings.

NYNEX agrees with the Commission's proposed filing dates for petitions and replies to streamlined tariff filings, with the exception that the Commission should not adopt the 3 day and 2 day filing periods for streamlined tariffs that are filed on 15 days' notice. Tariffs should be classified as reductions or increases depending on the effect of the tariff on the actual price index for the affected service categories. In the case of annual access tariff filings, which raise more issues than normal tariff filings, the Commission should require filing on 15 days' notice even if the overall effect on the actual price index is a reduction. The Commission should not require pre-filing of the tariff review plan in the annual access tariff proceeding.

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NYNEX COMMENTS

The NYNEX Telephone Companies[1] ("NYNEX") hereby file their Comments in response to the Commission's Notice of Proposed Rulemaking ("*NPRM*"), released September 6, 1996 in the above-referenced proceeding.

I. INTRODUCTION

In the *NPRM*, the Commission seeks to implement the provisions of the Telecommunications Act of 1996 that provide for streamlined tariff filings by local exchange carriers ("LECs"). However, the *NPRM* proposes very little in the way of streamlining. In fact, it proposes to increase the regulatory burden on the LECs. For instance, the Commission proposes to require the LECs to provide summaries with their tariff filings that include more detail than under current requirements, to submit an analysis showing that the proposed tariffs are lawful,

[1] The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company.

and to submit data in advance of the tariff filing.[2] While the *NPRM* discusses methods of implementing the 7 and 15 day notice periods that Congress established for streamlined LEC tariff filings, it does not propose any other actions to carry out the Congressional mandate to streamline the tariff process.

This is a serious omission. In enacting the Telecommunications Act of 1996, Congress intended to establish a "pro-competitive, de-regulatory national policy framework" for the telecommunications industry.[3] The Commission should give full force and effect to the Congressional directive to deregulate the LECs by establishing streamlined tariff filing procedures. Certainly, the Commission should not increase the regulatory requirements associated with tariff filings.

In these comments, NYNEX proposes that the Commission carry out the clear intent of Congress by reducing or eliminating unnecessary regulatory requirements associated with the filing and review of tariff filings.

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[2] *See NPRM* at paras. 25, 31.

[3] S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess., p. 113 (1996).

II. The Commission Should Adopt Streamlined Tariff Filings Procedures Under Section 402 Of The 1996 Act (NPRM, Section III).

A. The Commission Should Give Full Force And Effect To The Congressional Directive To Streamline LEC Tariff Filings.

In the Telecommunications Act of 1996, Congress added a new subsection 3 to Section 204(a) of the Act, which reads as follows:

> (3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period as appropriate.[4]

The Commission interprets this provision too narrowly in stating that "Section 402 is intended to streamline the LEC tariff filing process by truncating the period for pre-effective review of certain LEC tariffs."[5] This treats the first sentence of Section 402(a)(3) as surplusage -- as adding nothing at all to the second sentence, which reduces the notice periods for LEC tariff filings to 7 and 15 days. Thus, the Commission proposes nothing that would carry out the separate and distinct Congressional directive to provide for streamlined tariff filing procedures.

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[4] Telecommunications Act of 1996, Section 402(b)(1)(A)(iii); Communications Act of 1934, as amended (the "Act"), Section 204(a)(3); 47 U.S.C. Section 204(a)(3).

[5] *NPRM* at para. 5.

Congress could not have been more clear in stating that the Telecommunications Act of 1996 is intended to be "deregulatory." The tariff streamlining provisions described above are part of the "Regulatory Reform" section of the Telecommunications Act of 1996. This section provides, *inter alia,* (1) for the Commission to forebear from enforcing any provision of the Communications Act where such enforcement is not necessary to ensure just and reasonable rates or to protect consumers and the public interest; (2) for the Commission to review its regulations every two years to determine if they are no longer necessary; and (3) for exemption from Section 214 requirements for the extension of lines. The tariff streamlining provision is an essential part of the regulatory reform framework, and it should not be given short shrift by the Commission.

At the time that the Telecommunications Act of 1996 was passed, the Commission itself had made the term "streamlined" synonymous with "flexible" and "deregulated." In Docket 94-1, the Commission proposed to modify its price cap plan by providing for "streamlined" regulation when a LEC could show that it faced actual competition.[6] Under streamlined regulation, a LEC could file tariffs on 14 days' notice, the tariffs would be presumed lawful, the tariffs could be filed without cost support, and they would no longer be subject

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[6] *See* Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, *Second Further Notice of Proposed Rulemaking,* FCC 95-393, released September 20,1995, at para. 127.

to price cap ceilings or service band limits.[7] The LECs would also be allowed to offer contract tariffs pursuant to negotiations with individual customers.[8] New Section 204(a)(3) of the Act is consistent with this definition of "streamlined." It incorporates short notice tariff filing dates (15 days and 7 days), and it goes even farther in providing that streamlined tariffs will be "deemed lawful," not merely presumed lawful. The Commission should find that Congress, in using the term "streamlined," intended to incorporate other aspects of this concept that would reduce the regulatory burden on the LECs.

First and foremost, the Commission should reduce, not increase, the amount of data that LECs must provide with their tariff filings. For instance, the Commission should amend Section 61.49 of its rules to eliminate the requirement that price cap LECs submit data showing adjustments to the price cap indexes ("PCIs"), actual price indexes ("APIs"), and service band indexes ("SBIs") for tariff filings that change terms and conditions, but not rates.[9] The Commission should eliminate the requirements that the LECs produce cross-elastic revenue projections for new services,[10] and that the LECs submit workpapers and statistical data underlying the cost and demand projections for new services.[11]

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[7] *See id.* at paras. 3, 129.

[8] *See id.* at paras. 147-48.

[9] In the past, the Common Carrier Bureau has required the LECs to refile their indexes even where tariff filings change terms and conditions that are not rate-affecting.

[10] *See* 47 C.F.R. Section 61.49(h)(1)(ii).

[11] *See* 47 C.F.R. Section 61.49(h)(2).

In the section below, NYNEX proposes that the Commission reduce the amount of supporting data that are required for annual access tariff filings. NYNEX also proposes that the Commission define the category of tariffs that would receive streamlined treatment to include contract tariffs and promotional tariffs.

An important aspect of streamlining, and one which the Commission proposed in Docket 94-1 as a "baseline" reform (one which would not depend on the emergence of actual competition) is elimination of the Part 69 waiver process.[12] The Commission's Part 69 rules operate as a significant barrier to the timely introduction of new and innovative services. These rules describe, in minute detail, the types of Switched Access services that the LECs are permitted to offer. As the Commission noted in Docket 94-1, many new services and technologies do not readily fit into the Part 69 rate structure.[13] This forces a LEC to file a request for a waiver every time that it seeks to provide an innovative Switched Access service. There is no time limit for the Commission to act on a waiver request, and it typically takes more than a year for a carrier to receive a Part 69 waiver. This cumbersome and time-consuming process greatly diminishes the LECs' ability and incentive to deploy new and innovative services. No such waiver procedure is required for the introduction of new

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[12] *See* Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, *Second Further Notice of Proposed Rulemaking*, FCC 95-393, released September 20,1995, at paras. 66-74.

[13] *See id.* at para. 69.

Special Access services, and there is no apparent public interest in requiring this procedure for Switched Access.

The Commission should modify its Part 69 rules to provide that no waiver would be required when a LEC files a tariff that proposes a new Switched Access service, and that does not modify the carrier's existing Switched Access rate elements. A LEC should be allowed to file such a tariff on a streamlined basis, and with the same supporting information as any other tariff proposing a new service. If a LEC proposes to modify the existing rate structure as described in the Part 69 rules, the LEC should be allowed to file a petition showing that the rate structure is in the public interest, rather than showing that the request meets the standard for a rule waiver. The Commission should establish an expedited procedural schedule for considering such petitions, so that a LEC would have a reasonable expectation about the amount of time that it would take for the Commission to reach a decision, and so that the LEC could have a basis for planning modifications to its Switched Access rate structure. These actions would greatly reduce the regulatory lag in introducing new and innovative Switched Access services.

The Commission should adopt its tentative finding that Congress did not intend for the Commission to defer for up to 120 days the effective date of streamlined tariff filings.[14] The Commission's power to defer the effective date

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[14] *See NPRM* at para. 6.

of a tariff filing by up to 120 days is derived from Section 203(b)(1) of the Act. However, Section 203 sets forth the general rule for all tariffs. Section 204(a)(3) specifically states that a streamlined tariff proposing a "new or revised charge, classification, regulation, or practice" will be filed on 15 or 7 days' notice unless suspended and investigated by the Commission. Section 204(a)(3) does not provide that the Commission may extend this period by deferring the effective date of a streamlined tariff. Therefore, the Commission should find that when a LEC files a tariff under Section 204(a)(3) of the Act, the notice provisions of Section 203(b)(1) do not apply, and the Commission may not defer the tariff beyond the 7 or 15 day notice periods.

B. Congress Clearly Intended That Streamlined Tariff Filings Should Be "Deemed Lawful."

In the *NPRM*, the Commission seeks comments on the meaning of the term "deemed lawful." The Commission asks whether it should interpret this phrase to mean that the Commission is precluded from awarding damages for the period that a streamlined tariff is in effect prior to a determination that the tariff is unlawful, or whether it should interpret the phrase as meaning that streamlined tariffs are "presumed lawful" for purposes of establishing the burden of proof in a tariff investigation.[15]

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[15] *See NPRM* at paras. 8, 12.

The Commission should find that the term "deemed lawful" means that a streamlined tariff is the lawful rate, and not subject to damages claims, unless and until the Commission finds the tariff unlawful pursuant to a Section 204 or Section 205 investigation. Section 204(a)(3) is perfectly clear, and it is not within the Commission's power to modify the term "deemed" to mean "presumed."

Prior to the passage of the Telecommunications Act of 1996, the Commission's decision to allow a tariff to go into effect without suspension or modification did not constitute a finding that the tariff was lawful. Indeed, when the Common Carrier Bureau allowed a tariff to go into effect after petitions to suspend and investigate the tariff had been filed, the Bureau typically found that the tariff was "not so patently unlawful" as to warrant suspension, and that there was not sufficient grounds to warrant an investigation. These findings did not establish that the tariff was lawful, and a subsequent investigation, either in response to a Section 208 complaint or on the Commission's own motion, sometimes found that the tariff was unlawful from the day it was effective. These principles subjected the LECs to unlimited potential liability with regard to almost all of their revenue streams. The only exception, prior to the Telecommunications Act of 1996, was where the Commission terminated an investigation of a specific tariff, and found that the tariff was lawful, or where the Commission conducted a Section 205 proceeding, and prescribed the "just and reasonable charge" to be thereafter observed.

However, the Commission has conducted relatively few tariff investigations, and it has almost never used its Section 205 authority to prescribe tariff rates.

In enacting Section 204(a)(3), Congress clearly intended to add a third situation when a tariff would be considered lawful -- when a LEC files a streamlined tariff. Section 204(a)(3) states that a streamlined tariff "shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate." The word "deemed" is not synonymous with "presumed." As the Commission notes, Black's Law Dictionary defines "deem" as "to hold, consider, adjudge, believe, condemn, determine, treat as if, construe."[16] While none of these terms confers an immutable status, such that the Commission could not later reach a different holding, the Commission could not apply such a holding retroactively.[17] In contrast, a presumption merely establishes the burden of proof, or the burden of going forward with evidence, in a tariff investigation. It has no bearing on either the prospective or retroactive legality of a tariff, because it does not constitute a "holding," "judgment," or "determination" of legality. Therefore, the Commission cannot find that giving streamlined tariffs a presumption of legality

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[16] *NPRM* at para. 10.

[17] *See NPRM* at para. 9, *citing* Arizona Grocery v. Atchison, T. & S.F. Ry. Co., 284 U.S. 370 (1932).

carries out the Congressional directive that streamlined tariffs will be deemed lawful.

The Commission raises this issue because of its concern about limiting a customer's remedies regarding a streamlined tariff that is later found unlawful. However, there are several factors that should allay this concern. First, the Commission can suspend and investigate a tariff that appears unlawful, and impose an accounting order, which would preserve a customer's right to obtain reparations at the conclusion of the investigation if the tariff is found to be unlawful. Second, even if a tariff has already gone into effect, and is therefore deemed lawful, the Telecommunications Act of 1996 imposes a five-month time limit on proceedings that are initiated by customer complaint against a carrier's rates.[18] In contrast to current investigations, which can last for years, the investigations under the new Act will result in a quick decision and a limited period during which complainants will be exposed to potentially unlawful rates. Third, the Telecommunications Act of 1996 is designed to promote competition through new entry into the local exchange market. Telecommunications customers will have competitive choices if the incumbent LEC tries to impose unlawful rates. In particular, long distance carriers, who are the primary customers for interstate access services, can self-provide access services through

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[18] *See* 47 U.S.C. Section 208(b)(1).

their own facilities or through purchase of unbundled elements of the LEC network if they are not satisfied with the LECs' access charges.[19]

For these reasons, the Commission should follow the plain language of Section 402(a)(3) and find that streamlined tariffs will be deemed lawful unless suspended and investigated prior to their effective date.

III. All New Or Revised Tariffs Should Be Eligible For Filing On A Streamlined Basis (*NPRM* Section IV).

The Commission requests comments on whether streamlined tariff filing procedures should be limited to tariffs that increase or decrease existing rates.[20] The Commission also asks for comments on whether it should interpret the terms "new or revised charge, classification, regulation or practice" in Section 204(a)(3) as encompassing only new or revised charges, classifications, or practices associated with existing services. This would exclude tariffs proposing new services from streamlined treatment.

Section 204(a)(3) makes it clear that all LEC tariff filings qualify for streamlined treatment. The terms "new or revised charge, classification or practice" in Section 204(a)(3) are identical to the terms "new or revised charge,

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[19] As the Commission explained on reconsideration of its order in Docket 96-98, an interexchange carrier would have to purchase the unbundled local switching element on a per-line basis to avoid access charges. *See* In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, Order on Reconsideration, FCC 96-394, released September 27, 1996, paras 10-13.

[20] *See NPRM* at paras. 16-18.

classification, regulation, or practice" in Section 204(a)(1). The Commission has consistently construed these terms in Section 204(a)(1) as giving it the power to conduct investigations of all types of tariff filings. Moreover, Section 204(a)(1) uses similar terms to describe the types of tariffs for which the Commission may impose an accounting order during a tariff investigation, for the purposes of ordering refunds if the tariff is found unlawful ("in the case of a proposed charge for a new service or a revised charge"). Prior to 1992, Section 204(a)(1) only empowered the Commission to impose an accounting order for "a proposed charge for a new service or an increased charge." This prevented the Commission from ordering refunds for tariffs proposing reduced charges.[21] In 1992, Congress amended Section 204(a)(1) to allow the Commission to impose accounting orders for "a proposed charge for a new service or a revised charge."[22] These terms were used to make it clear that the Commission could impose an accounting order, and order refunds, for all types of rate changes, including rates for new services and revised rates for existing services. If the Commission interpreted the terms "new" and "revised" for purposes of Section 204(a)(3) to exclude tariff proposing new services, it would imply that the Commission would not have the statutory power under Section 204(a)(1) to order investigations of any tariffs proposing new services or to order refunds in such investigations where the new rates were found unlawful. Clearly, this is

[21] *See, e.g.*, Annual 1988 Access Tariff Filings, 4 FCC Rcd 7906 (1989), para. 10.
[22] Pub. L. 102-538, Title II, Section 203, 106 Stat. 3542.

not what Congress intended when it used the terms "new" and "revised" to describe the tariffs that would qualify for streamlined treatment.

Moreover, construing the terms "new or revised charge, classification, regulation or practice" to include only "new" charges for existing services, and to exclude charges for a "new service," would be contrary to the definition of "new services" in the Commission's price cap rules. Under price caps, a tariff filing is classified as a "new service" if it enlarges the range of service options available to the customer, and does not replace an existing service.[23] In contrast, a restructured service "involve[s] the rearrangement of existing services. Carriers can restructure a service by changing an existing method of charging or provisioning, by changing a term or condition, by adding language, or by adding, consolidating, or eliminating rate elements."[24] Thus, the Commission treats a new charge for an existing service, including a new charge for a formerly non-chargeable option, as a restructure tariff, and not as a new service. It would be inconsistent with the Commission's classification of tariff filings under price caps to define the term "new" as to apply only to restructure tariffs.

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[23] *See* 47 C.F.R. Section 61.3(t); Policy and Rules Concerning Rates for Dominant Carriers, *Second Report and Order*, 5 FCC Rcd 6786 (1990), para. 314.

[24] *Id.*; 47 C.F.R. Section 61.3(ee) (a restructured service is defined as "[a]n offering which represents the modification of a method of charging or provisioning a service; or the introduction of a new method of charging or provisioning that does not result in a net increase in options available to customers").

For these reasons, the Commission should find that all types of tariffs, both tariffs proposing new services and those proposing to restructure existing services, should qualify for streamlined treatment.

The Commission seeks comments on its tentative conclusion that LEC tariffs that are filed on longer notice periods than are provided in Section 204(a)(3) would not be "deemed lawful."[25] This would not be good policy, and there is nothing in the language or the history of the Act to support it. The fact that a LEC chooses to file a streamlined tariff on more than 7 or 15 days should not subject the tariff to more burdensome data requirements or to more stringent Commission review, and it should not cause the tariff to lose the "deemed lawful" status. This would simply motivate the LECs to file all tariffs on short notice. The Commission should adopt rules implementing Section 204(a)(3) that would require streamlined tariffs to be filed on "at least" 7 or 15 days' notice. This would be similar to the Commission's existing rules on the required notice periods for LEC tariff filings.[26]

Finally, NYNEX agrees with the Commission's tentative conclusion that Section 204(a)(3) does not preclude the Commission from exercising its forbearance authority under Section 10(a) of the Act to establish permissive or mandatory detariffing of LEC tariffs.[27] Section 10(a) states that the Commission

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[25] *See NPRM* at para. 19.
[26] *See, e.g.*, 47 C.F.R. Section 61.58.
[27] *See NPRM* at para. 19.

has the power to forebear from applying "any regulation or any provision of this Act" if certain conditions are met. The Commission could, for instance, reduce the notice period for a streamlined tariff filing to one day if it finds that implementation of the Telecommunications Act of 1996 has caused conditions in the marketplace to meet the Section 10(a) standards.

IV. The Commission Should Amend Its Rules To Streamline The Filing And Administration Of LEC Tariff Filings (*NPRM* Section V).

A. Electronic Filings.

NYNEX supports the Commission's intention to adopt electronic filing procedures for tariffs and associated documents. NYNEX participated in the Commission's Docket 94-18 inquiry into the establishment of a Federal Advisory Committee to assist the Common Carrier Bureau in developing and implementing an electronic filing system. These efforts should continue.

NYNEX also supports the Commission's proposal to explore the Internet as a potentially efficient vehicle for providing electronic access to tariffs and associated documents. If an Internet-based system proved to be viable, the Commission could post a notice of a tariff filing on its Web page immediately upon receipt of the filing, whether it was filed electronically or by traditional means. The Commission's Web page could provide a hot link to the Web page of the LEC that filed the tariff, where the LEC would post the tariff and provide

a download option. Maintaining the tariff filings on the LEC Web pages, instead of on the Commission's Web page, would help the Commission to reduce the memory requirements on its server. Interested parties could check the Commission's Web page periodically for tariffs that might be of interest. Also, the Commission could e-mail notices of tariff filings to parties that register their desire to receive such notices, as it does now with the Daily Digest. Parties that file petitions against LEC filings could be required to e-mail copies to the LEC address, in lieu of hand-delivery. Also, the Commission could place notices of petitions against LEC filings on its Web page, and e-mail the notices to the LEC representatives. The Commission's Web page could also provide Internet links to the petitions on the petitioners' Web pages, if they are available. LEC responsive pleadings could also be listed on the Commission's Web page, and they could be provided to interested parties through Internet links.

The Commission should recognize that posting tariffs on Web pages is potentially a very expensive process, because the LECs use a variety of word processing and document publishing programs to prepare tariffs and associated documentation. The source data from these programs must be converted to Standard Generalized Markup Language ("SGML"), which must then be converted to Hyper Text Markup Language ("HTML"), to be included in a Web page. Due to the proprietary nature of most word processing and document publishing programs, the LECs must undertake a significant work effort to convert the source data to SGML so that all of the tariff formatting is retained.

In order to reduce the burden on the LECs, the industry needs to adopt standards for the creation of tariffs using tools that will easily convert source data to SGML. Currently, the Telecommunications Industry Forum ("TCIF"), the TCIF Information Products Interchange, the International Organization for Standardization ("ISO"), and the International Telecommunications Union ("ITU") have been undertaking various efforts to recommend industry standards for data exchange that support electronic (Web) publishing.[28] Once the industry adopts such standards, the Commission should consider the use of such industry standards, as well as other methodologies, to achieve standardization and normalization of tariff data that will serve to facilitate the Commission's goal of streamlined tariffs, electronic filings, and distribution of tariff information via the World Wide Web.

The Commission should convene an industry working group to design and test an Internet-based filing system and to develop electronic filing procedures. Representatives from the LECs, interexchange carriers, users, consumer groups, and other interested parties should be invited to join the group to ensure that the electronic filing system would meet the needs of all participants in the Commission's proceedings.

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[28] The ISO and ITU have put out a Request for Proposal ("RFP") for a comprehensive Document Management System solution that could support all business processes in a document intensive environment. The Commission's requirements for a standardized method of document distribution may be very similar to those set forth in the RFP.

B. Post-Effective Tariff Review.

The Commission requests comments on whether it should adopt a policy of relying on post-effective tariff review, at least for certain types of tariff filings.[29] NYNEX believes that this would be contrary to the spirit of the Telecommunications Act of 1996. The Commission should review all streamlined tariffs within the 7 or 15 day notice periods to determine issues of lawfulness. Certain types of tariffs should always receive pre-effective review, such as below-cap, within-band filings, rate restructures, and new service filings which do not elicit petitions to reject, suspend or investigate. The Commission should issue a decision before the tariff effective date, if possible, if it finds that petitions to reject, suspend or investigate have no merit. The Commission should engage in post-effective tariff review only where there are complex issues that cannot be resolved before the tariff effective date.

C. Pre-effective Tariff Review.

The Commission proposes to require the LECs to submit additional information with streamlined tariff filings, including;

> 1. summaries of proposed tariff revisions providing a more complete description than under current requirements. This would include a summary of the basic terms and conditions, a description of how the proposed changes, if any, differ from the current terms and conditions, and a description of the expected impact on customers; and

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[29] *See NPRM* at para. 23.

2. an analysis showing that the tariff is lawful under the applicable rules.[30]

In addition, the Commission proposes to establish a presumption of unlawfulness for certain types of tariff filings, so that the Commission could suspend and investigate such filings through abbreviated orders or public notices.[31]

These proposals are contrary to both the letter and the spirit of the Telecommunications Act of 1996. Section 204(a)(3) requires the Commission to establish streamlined tariff filing procedures. This contemplates reduced regulatory burdens on the LECs. Section 204(a)(3) was adopted as part of the Regulatory Reform section of the Telecommunications Act of 1996. It was intended to provide a vehicle for the Commission to reduce, or eliminate, unnecessary regulatory burdens.[32] Section 204(a)(3) specifically states that streamlined tariffs should be "deemed lawful." By no stretch of the imagination can this be interpreted to give the Commission authority to "presume unlawful" a streamlined tariff filing.

As noted above, the Commission should adopt reduced tariff support requirements for streamlined tariff filings, at least for certain categories of generally non-controversial tariff filings. Below-cap, within-band tariff restructures should not require documentation other than a showing that the

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[30] *See NPRM* at para. 25.
[31] *See id.*
[32] *See* S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess., p. 186 (1996).